

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

JOHN C. PONTE, and GREENWICH
BUSINESS CAPITAL, formerly known as
POINTE INVESTMENTS, LLC

Plaintiff,

v.

FEDERAL DEPOSIT INSURANCE
CORPORATION, and INDEPENDENCE
BANK,

Defendants.

Case No. 1:23-cv-00018-MSM-LDA

DECLARATION OF KENT D. OZ

I, Kent D. Oz, do hereby declare as follows:

1. I am employed as a Senior Attorney in the Legal Division of the Federal Deposit Insurance Corporation (“FDIC”). I am currently assigned to Enforcement Section, with responsibility for the investigation into Independence Bank (the “Bank”) and its institution affiliated parties (“IAPs”). I submit this Declaration in support of the FDIC’s petition to enforce an administrative subpoena plaintiff John C. Ponte (“Ponte”).

2. In March 2020, the FDIC began its formal investigation into whether IAPs may have violated laws or regulations, engaged in unsafe or unsound practices, or breached fiduciary duties to the Bank. Attached as Exhibit A is a true and correct copy of the FDIC’s March 27, 2020 Order of Investigation authorizing this investigation.

3. Ponte has previously complied with the FDIC’s subpoenas seeking documents.

4. In September 2022 we served Ponte's counsel with the subpoena seeking Ponte's sworn testimony, which noticed a September 16 date. This date was postponed, on multiple occasions while we attempted to negotiate the terms of a proposed stipulation. After Ponte determined that he could not agree to the terms of a stipulation, the FDIC re-served the subpoena on Ponte's counsel (both by email and UPS) on December 28, 2022 and January 4, 2023, respectively. The subpoena noticed a remote setting for Mr. Ponte's sworn testimony on January 13, 2023 beginning at 9:30am. Attached as Exhibit B is a true and correct copy of the administrative subpoena.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 20, 2023

Kent D. Oz